

APPENDIX C

AFFIDAVIT OF FRAN S. YOON

I, FRAN S. YOON, being duly sworn in accordance with the law, depose and say,
that:

1. I am a Korean/English interpreter and translator with over 20 years of experience.

2. I am currently registered with the federal courts of New York and New Jersey.

3. I have translated more than 1000 pages of witness/suspect interrogation reports relating to international extradition cases for violations of the Foreign Corrupt Practices Act, Money Laundering Control Act, OFAC sanctions, etc.

4. I have been asked to review excerpts of interviews of Seung-il Park conducted by the Incheon District Prosecutor's Office against the English translation in Govt Ex B Korean and English Excerpts. In particular, I have been asked to assess the accuracy of the translation of the Korean term '명목으로' or its variant '명목.'

5. '명목으로' can be translated in one of two ways:

- a) 'for,' 'as,' 'to,' 'in the name of,' 'for the purposes of'
- b) 'under/on the pretext of'

6. The following excerpts have been selected from the most popular online Korean/English dictionary, operated by Naver, to illustrate these two possible translations.

Conditions in which '명목으로' may be translated as 'for,' 'as' or 'in the name of':

- Jerome starved themselves in the name of religion.
제롬은 종교의 명목으로 그들 스스로 금식했다.
- Others said they were entitled to the money as disaster relief.
다른 사람들은 그들이 재난 구호금 명목으로 그 돈을 받을 자격 있다고 했다.

Conditions in which ‘명목으로’ may be translated as ‘under the pretext of’:

- She offered him a bribe under the pretext[excuse] of giving a political donation.

그녀는 정치헌금이라는 명목으로 그에게 뇌물을 제공했다.

7. For ‘명목으로’ to mean ‘under the pretext of,’ there should be a modifier present to reinforce a negative connotation or sufficient context within the text to come to that conclusion. In the final example above, the use of the phrase ‘under the pretext of’ is predicated on the word ‘bribe’ in the sentence.

8. In Section 2.8 of Govt Ex B, the prosecutor asks Seung-il Park about his “collecting funds from group affiliates in an illegal manner on the pretext of trademark fees, consulting fees, etc.” Here, the word ‘illegal’ acts as a modifier to ‘명목,’ denoting a negative connotation, so that the inference may be made that the prosecutor meant for ‘명목’ to mean ‘on the pretext of.’

9. Additionally, Park’s answer to the question supports the use of ‘on the pretext of.’ Park’s affirmative response, “Yes, I admit to all. But I do not think that I collected funds in an illegal manner,” indicates his awareness of the implication of the question and provides further context for a translator to conclude that the phrase ‘on the pretext of’ is a sound translation of the term ‘명목.’

10. In the two examples below from Govt Ex B, ‘명목으로’ is translated as ‘under the pretext of’ without the presence of a modifier or sufficient context.

Example #1 – Govt Ex B section 4.2

Q: I ask you again. Do you admit that you collected money from affiliates including Ahae Co., Ltd. under the pretext of trademark royalty and consulting fees and managed the funds?

A: Yes, I admit that I collected and managed the funds.

Example #2 – Govt Ex B section 8.2

Q: The analysis of Chonhaiji Co., Ltd.'s accounting data shows that, in 2013 Chonhaiji Co., Ltd. paid KRW 19,862,000,000 over 44 different remittances to AHAE PROS I&C and AHAE PRESS FRANCE, on the pretext of advance payment for purchasing the photographs. What do you think?


A: Yes, I am aware of that.

11. In these two examples, nothing in the prosecutor's questions or Park's answers provides a basis for a negative connotation. For that reason, '명목으로' should have been translated as 'for,' and not 'under the pretext.' More generally, in the absence of a negative connotation (i.e., words such as 'illegal') or of sufficient context (i.e., a response from Park referencing such), a translator should translate the term '명목으로' as 'for,' 'as,' 'in the name of' or the like, and not 'under the pretext of.'

12. The Korean language can be ambiguous and problematic, and the term '명목으로' is a prime example of that. One illustration of a phrase that could have been used in place of '명목으로' to avoid any ambiguity would be '허위명목,' meaning 'under the false pretext of' or 'under false pretenses.' If this word had been used, a translator could logically determine that the use of 'under the pretext of' was appropriate, even without a modifier or additional context. However, the term '명목으로' alone is not enough to justify the translation of 'under the pretext of.'

I certify that the above information is true and correct to the best of my knowledge and belief.

January 23, 2021


Fran S. Yoon

Sworn to before me this
23 day of January, 2021.


Notary Public

JER WEI CHEN
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01CH6174210
Qualified in New York County
My Commission Expires 9/17/2023

AFFIDAVIT OF JONG-MIN JEON

Jong-Min Jeon, being duly sworn, deposes and says:

1. I am the managing partner of the law firm Jeon, Cha & Lee. I have been practicing law as a licensed Korean attorney for the past 14 years. Previously, I served as a judge in the Korea court system for 8 years from 1998 to 2006.

2. I have been asked to review excerpts of the May 8, 2014 interview of Park Seung-il by Korean prosecutors, as well as a certified English translation of those excerpts attached as Exhibit A. The question posed to me, and on which my expert opinion has been sought, is the accuracy of the translation of the Korean phrase “명목” in that transcript.

3. As a general matter, the Korean phrase “명목” means “for,” or “for the purpose of” or “in the name of.” The phrase, however, can mean “under the pretext” in certain contexts. Specifically, the phrase can have that more negative meaning if the question or answer indicates that an action was taken wrongfully. Compare these two sentences: “I obtained the money for a loan” and “I obtained the money illegally under the pretext of a loan.” In Korean, the word “for” and “under the pretext” would be the same -- “명목”; the context provides the meaning.

4. The certified translation at page 5 gives Park’s answer as “[I] was engaged in collecting funds from affiliated companies under the pretext of trademark fees, consulting fees, advisory fees, etc.” The question asks only for his job responsibilities; it does not suggest illegality, either explicitly or implicitly. In such an instance, the correct translation of “명목”, in my opinion, is “for,” and not “under the pretext.” The context provides no reason for the reader

or listener to conclude that a negative connotation was intended. The same applies to the prosecutor's question that follows.

5. The exact same analysis applies to page 10 of the certified transcript. In the question, the phrase “명목” is translated as “for,” yet in the answer it is translated as “under the pretext.” Nothing in the question or answer suggests illegality. Therefore, in my opinion, “for” is the correct translation in both places. The same applies to the prosecutor's questions on page 22.

6. A counter example might be useful. On page 9, Park is asked about his “illegally collecting funds . . . under the pretext of trademark, consulting fees, etc.” and he answers “I didn't think that I was collecting money illegally.” Here, “under the pretext” is a sound translation. The use of the phrase “명목” in conjunction with the word “illegally” permits a translator fairly to give the phrase a negative -- “under the pretext” -- meaning.

7. Translating Korean to English is not easy, especially when a word can have different meanings depending on context. But “명목” should be translated neutrally as “for” unless the context clearly indicates otherwise.

8. I represent that the foregoing is true and correct.

Dated: December, 16, 2020


Jong-Min Jeon